BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of

National Fuel Gas Distribution, Inc.

Case 07-G-0141

June 2007

Prepared Testimony of:

SAFETY PANEL

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Q. Please state your names and business address.
A. Terry Wasielewski and Richard Lepkowski, Three Empire State Plaza; Albany, New York, 12223-1350.
Q. Mr. Wasielewski, by whom are you employed and in what capacity?
A. By the New York State Department of Public Service as a Utility Engineer 2 (Safety) assigned to the Office of Gas and Water. My educational experience includes a Bachelor of Science degree in Electrical Engineering from Rochester Institute of Technology (1985), a Masters of Business Administration from American International College (1989) and a Professional Engineers License in the State of Connecticut. I am responsible for organizing, scheduling, coordinating and directing the field activities of the Buffalo area office. The field activity program includes comprehensive safety and reliability evaluations of upstate utilities and covers all aspects of operations, maintenance and construction of jurisdictional natural gas

pipelines. I am familiar with all New York State and federal gas and liquid pipeline safety codes, including the overall operations of the major upstate gas utilities.

Q. Have you previously testified in a regulatory proceeding?

A. No.

Q. Mr. Lepkowski, what is your position with the Department of Public Service?

A. I am a Utility Analyst 2 assigned to the Office of Gas and Water, Safety Section in the Buffalo Office.

Q. Mr. Lepkowski, please state your education and experience.

A. I graduated in June 1981, from the State University of New York at Buffalo, with a Bachelor of Science degree in Industrial Technology. I have been employed by the Department of Public Service since November 1985. I am responsible for the investigation and analysis of gas pipeline facilities, company standard practices and records related to system

design, construction, operation and maintenance. My duties also include assuring compliance with the federal and state pipeline safety regulations that apply to gas utilities and pipeline operators. Investigation of complaints from utility customers and the public regarding pipeline safety, service issues, and facilitation of the resolution between the utilities and complainants are also part of my responsibilities. I am also required to prepare detailed reports related to my investigations, analyses, audit findings and recommendations. I am familiar with federal and state gas safety pipeline codes and with the operations of both major and small gas utilities in New York State.

Q. Have you previously testified in a regulatory proceeding?

A. Yes, I have previously testified in rate cases involving Corning Natural Gas (Case 02-G-0003), NYSEG (Case 01-G-1668) and NFG (Case 04-G-1047).

Q. What is the purpose of the Safety panel’s testimony?

A. The purpose of our testimony is to recommend safety performance targets, which will become incentives for National Fuel Gas Distribution Corporation (Distribution or the Company) to maintain and improve specific areas regarding the safety of its gas distribution system. These incentives should focus the company's attention on areas widely accepted as of high importance, and help ensure service reliability. The targets are derived from the company's actual levels of historic performance, our knowledge of Distribution, and our experience with other local distribution companies across the state.

Q. What does the Safety Panel recommend in the area of safety performance incentives?

A. We recommend, at a minimum, that Distribution be required to implement the safety performance incentives listed below for the Calendar Year 2008, and for each subsequent year until the rate plan resulting from this proceeding is superseded. The safety performance incentives

are assigned a total of 30 basis point equivalent of regulatory liability.

Q. Is the Panel sponsoring any exhibits?

A. No.

Q. Did Distribution propose any safety related targets in its filing?

A. No. However, the company's current rate plan provides that its existing safety related targets will continue until changed by the Commission. While we agree with some of the existing targets, we have concluded that most are inadequate based on the company's actual performance, and the level of safety it can provide the public.

Q. Please list the panel's proposed Safety Performance Incentives.

A. The panel recommends that Distribution be required to implement the following four safety performance incentives:

(1) Infrastructure Enhancement

(2) Leak Management

(3) Emergency Response to Gas Leak/Odor Calls

(4) Prevention of Excavator Damages

Q. Please provide an overview of the Panel's recommendations.

A. Each safety incentive is discussed below:

(1)Infrastructure Enhancement

(a.) Leak Prone Steel/Cast Iron and plastic Main Removal

We recommend setting an annual goal to eliminate 80 miles of leak-prone pipe.

Q. What is the basis for this infrastructure enhancement incentive?

A. We are recommending an infrastructure enhancement incentive intended to ensure that Distribution proactively addresses its leak prone pipe. Historical leak totals and main inventory mileages have shown that Distribution should continue targeting bare steel, cast iron and any other leak prone pipe, such as early vintage plastic, for replacement.

Q. Why are you recommending 80 miles of main?

A. Our review has shown that Distribution is capable of maintaining current levels of

targeted pipe replacements within its existing capital budget.

According to its annual inventory reports filed with the United States Department of Transportation (USDOT), Form RSA F 7100 1-1, Distribution removed a combined total of 86 miles of bare steel and cast iron mains in 2005. In 2006, Distribution replaced a combined total of 71 miles of bare steel and cast iron mains. The average bare steel cast iron removal mileage for this period is 78.50 miles.

Q Please describe the leak-prone pipe replacement component of the safety performance incentive.

A. The initial premise of our recommendation is that Distribution continues to replace leak-prone pipe at a rate not less than their historical capability.

Q. Please explain what you mean by "leak-prone" pipe.

A. Leak-prone pipe is generally considered steel pipe that is unprotected, cast iron pipe, and some vintages of plastic pipe that can become

brittle.

Q. What is meant by “unprotected?”

A. It means the pipe lacks cathodic protection, a method by which steel pipelines are protected from corrosion. Such unprotected pipe is also referred to as "bare" steel. For our purposes here, bare steel pipe also includes pipe that is ineffectively coated.

Q. How does the bare steel component of the recommended safety incentive add to the safety of the gas system?

A. Corrosion is a leading cause of leakage and bare steel pipe is the most susceptible to corrosion.

Q. How does the removal of cast iron pipe add to the safety of the gas system?

A. Due to its physical characteristics, cast iron pipe is more prone to catastrophic failures than cathodically protected steel pipe and plastic pipe. Small diameter cast iron pipe, defined as eight inches or less in nominal diameter, is even more prone to structural failure, due to brittleness and low beam strength. Removal of

this pipe will reduce the potential for leaks and incidents resulting from failures. Cast iron pipe tends to be located in older, more densely populated areas with many enclosed structures and paved areas. These circumstances tend to be more conducive to the below-ground migration of gas across wider areas than would occur in rural areas. The more congested the environment the greater the risk of fires or explosions. The removal of these leak-prone facilities will also benefit the company and improve public safety by reducing leak backlogs.

Q. What criteria should be used for the removal of leak-prone pipe?

A. We recommend that Distribution continue to use its leak-prone pipe replacement candidate selection process known as the Pipeline Replacement Expenditure Program (PREP). The PREP process incorporates a computer program to evaluate leak-prone piping segments based on criteria including type of material such as bare steel or cast iron, certain vintages of plastic

pipe, leakage history, active corrosion and location of pipe in relation to structures and pavement where gas could migrate and gather if leakage occurs. The PREP program ranks risk, reliability, and economic factors and prioritizes these segments for replacement. The assigned risk priority level guides the company to remove its highest-risk pipe first and thereby improve the overall safety of the system through lower leak rates.

(b) Bare Steel Service Replacement

Q. Please describe the bare steel service component of the infrastructure replacement performance incentive.

A. We recommend Distribution remove a minimum of 4,000 bare steel services for calendar year 2008.

Q. How does this incentive add to public safety?

A. Service lines are part of the gas system that interconnects the gas distribution main to the customer’s building or premises and therefore, are in the closest proximity to the customer’s

structure. Should a leak occur in a service line, there is a greater potential for gas to migrate into the structure than there is from a leaking gas main, since services are generally closer to a customer's building. Gas migration into a structure could cause a catastrophic event, such as a fire or explosion. Unprotected steel services are prone to deteriorate by corrosion at a faster rate than cathodically protected steel services or those made of other materials.

Q. What was the actual level of bare steel service removals over the previous years?

A. According to its annual inventory reports filed with the United States Department of Transportation (USDOT), Form RSA F 7100 1-1, Distribution's bare steel service inventories at the end of 2005 and 2006 identify the removal of 4492 and 4790 bare steel services, respectively. However, in 2005, the company included a total of 732 bare steel service removals that were actually record corrections, and not actual

removals performed that year. The actual 2005 bare steel physical removal total is 3760. Therefore, the company has averaged a removal rate of 4,275 bare steel services over the period.

Q. What is the impact of this recommendation in the current rate case?

A. For this incentive, we recommend the company maintain historic capability and capital expenditure levels required to continue to reduce its inventory of this leak-prone service piping.

Q. Do you recommend any criteria that should be used for selecting bare steel service removal candidates?

A. The company should first focus on removal of bare steel services associated with distribution main candidates selected as part of the PREP program.

Q. What if the company cannot meet the target of 4000 bare steel services using this method alone?

A. The company should identify and rank bare steel service replacement candidates by risk, reliability and economic factors, and then remove them in the most cost effective way to achieve the target.

(2) Leak Management

Q. What do you recommend for leak management?

A. For this incentive, we recommend the company maintain a calendar year-end backlog of hazardous leaks less than or equal to 75 leaks. A hazardous leak poses a hazard to the public and must be repaired within a specified time period under New York pipeline safety regulations.

Q. Please discuss the purpose of the leak repair management performance incentive.

A. The overall objective of the leak management performance incentive is to gauge the company's performance in managing the number of hazardous leaks on its system. Minimizing the number of leaks helps reduce the potential for incidents involving natural gas. A lower year-end

inventory of hazardous leaks will gauge the company's year-round repair effort and minimize the hazards to the public during frost conditions, when there is a higher risk of gas migration into homes because the gas cannot vent to atmosphere as readily. Therefore, this incentive is expected to cause the company to reduce the number of leaks and thereby provide a higher level of safety to the public.

Q. How did you determine the number of the year-end leak backlog?

A. We reviewed company data for calendar years 2005 and 2006. The annual year-end hazardous leak backlogs were reported as 110 and 77, for this period, respectively. We believe that our proposed 2008 goal of 75 hazardous leaks is within the company's reach since the company has already nearly achieved that performance level.

(3) Emergency Response to Gas Leak/Odor Calls

Q. What do you recommend for response to leak and odor calls?

A. Consistent with statewide standards for Emergency Response, we recommend the following performance incentives for Distribution:

a) Respond to 75% of all gas leak and odor calls within 30 minutes

b) Respond to 90% of all gas leak and odor calls within 45 minutes.

c) Respond to 95% of all gas leak and odor calls within 60 minutes

Q. Please describe the Emergency Response performance incentive?

A. This incentive evaluates the company’s response to gas leak, odor and emergency calls generated by the public and non-company personnel. Each company is required by gas safety regulations to provide a monthly report of the total number of calls received and responded to in intervals of 15 minutes during normal business hours, weekdays outside of business hours, and weekends and holidays. This incentive, in addition to the leak management and damage prevention incentives, is included in the Safety Section's

annual performance report to the Commission (Case 06-G-0566, Gas Safety Performance Measures Report, issued June 1, 2006). Our proposal is consistent with the existing statewide standard jointly established by Staff and the utilities.

Q. What has been Distribution's performance in this measure in recent years?

A. For the 30-minute response goal, Distribution responded to 88.5% and 91.1% for 2005 and 2006, respectively. For the 45 minute response goal, NFGD responded to 96.8% and 97.0% for 2005 and 2006, respectively. For the 60-minute response goal, NFGD responded to 99.0% in both 2005 and 2006. Since the company is currently exceeding the targets, our recommendation of the accepted statewide targets simply encourages it to avoid significant deterioration in performance.

Q. How will the emergency response incentives increase public safety?

A. Leaks on inside piping, improperly operated or installed appliances, and gas migration into a building from leaks on outside buried piping

present a risk to the general public. The company recognizes this and dispatches crews in response to calls reporting gas leaks or odors on a priority basis. The potential for an incident and physical harm to the general public increases as the company's response time lengthens. Therefore, it is important to minimize the response times to calls of gas odor and/or gas leaks.

(4) Prevention of Excavation Damage

Q. What do you recommend for the prevention of excavation damages?

A. We recommend the following excavation damage prevention safety incentives for calendar year 2008:

a) Achieve an annual level of less than or equal to 0.90 damages per 1,000 One-Call Tickets for Mis-mark damages.

b) Achieve an annual level of less than or equal to 0.20 damages per 1,000 One-Call Tickets for damages due to excavation by

company personnel and outside contractors in the company's employment.

c) Achieve an annual level of less than or equal to 4.20 total damages per 1,000 One-Call Tickets.

Q. What is a "One-Call Ticket?"

A. The Public Service Commission's regulations contained in 16 NYCRR Part 753 – Protection of Underground Facilities – require excavators to make a toll-free call to a "one-call" notification system and provide notice of their intent to perform excavation work. The one-call notification system that covers Distribution's territory is Dig Safely New York, which takes the pertinent information from the excavator and transmits it to its member utilities that may be affected by the excavation work. Those utilities then mark the location of their affected facilities so the excavator can avoid damaging them. Each incoming call to Dig Safely New York will generate several outgoing notices to the member utilities such as the gas,

electric, telephone, cable, and water companies. A notice received by the utility is referred to as a One-Call ticket.

Q. Please define the term “Mis-mark.”

A. The term “Mis-mark” is used to describe instances where buried facilities in the work area are not accurately marked. For purposes of this measure, an accurate mark shall be considered as within the tolerance zone as described in Part 753. The “tolerance zone” is defined as the diameter of the underground facility plus two feet on either side of the designated centerline when the diameter is known, or two feet on either side of the designated centerline if the diameter of the underground facility is not known.

Q. Please describe the performance incentives regarding the prevention of excavation damage caused by Mis-marks?

A. As an operator of a natural gas distribution system, Distribution participates in the local one-call/damage prevention system in an effort

to minimize the instances of damage inflicted on their pipes by excavation activities. In order to comply with 16 NYCRR Part 753, Distribution must respond to all requests for a mark out by excavators, physically locate their pipes, and mark out the locations on the ground. This performance incentive will gauge how well these mark outs are conducted.

Q. Please describe damages by company and company contractors.

A. Distribution, by the nature of its work, employs both contract excavators and conducts its own excavations. In these cases, 16 NYCRR Part 753 does not require the company to mark out its own underground facilities, because there are maps and field sketches readily available to the company employees and contract excavators that identify the location of the company facilities.

Q. Are damages due to excavation a big concern in Distribution’s service territory?

A. Yes. According to both New York State and National statistics, the leading cause of

pipeline failures and incidents is damage by excavation activities. Marking of facilities and company-sponsored excavations are two areas where Distribution has the greatest control. Therefore, the company should concentrate its efforts in these areas where it can have the most direct impact, and not rely on influencing the actions of others.

Q. How did the panel derive the targets for the damage incentives?

A. We examined Distribution's actual performance for 2005 and 2006, and chose a reasonable performance level based on the company and statewide data. For incorrect marking of company facilities, Distribution experienced 1.51 and 1.09 damages per 1000 One-Call Tickets in 2005 and 2006, respectively. Our proposed target of 0.90 for 2008 is the most recent statewide performance level for this incentive. We used the same methodology for the damages due to excavation by company personnel and outside contractors, and total damages. The company

experienced 0.24 and 0.14 damages due to excavation by company personnel or outside contractors in 2005 and 2006, respectively. For total damages the numbers were 6.42 and 4.98 respectively. The Panel's targets of 0.20 for company excavator damages and 4.20 for total damages are based on historic statewide performance levels. These incentives will encourage Distribution to target a level of public safety better than it has historically experienced.

Q. Please discuss overall damages.

A. Damages caused by excavator failure to notify Dig Safely New York and/or unsafe excavation practices are not totally within the control of the company. However, the company can minimize these damages by influencing excavator activity through education and outreach efforts to excavators, by continuing to bill excavators for repair costs when the excavator is at fault, and by referring problem contractors to Department Staff for possible enforcement activities.

Q. Are “No-Call” damages a factor in the Total Damages Measure?

A. Yes. No call damages are simply instances where no ticket was generated because the excavator did not provide notice of intent to excavate. This metric is part of the Total Damages and provides an indication of the general level of awareness excavators have about the one-call notification system. Recent legislation by the Federal Communications Commission mandated the creation of a single nationwide “three-digit” telephone number “811” that excavators can call to request the markout of any underground facility. The single telephone number “811” will relieve excavators from having to remember multiple phone numbers if they work in areas covered by different one-call centers across the country. The number officially became effective in April 2007, and Dig Safety New York is participating.

Q. Do the recommended targets for overall damages per 1,000 One-Call tickets already include the

company Mis-mark and company contractor components?

A. Yes.

Q. Why are you recommending a separate total damage target?

A. Even if it appears that the targets for Mis-mark and/or company and company contractor damages will be exceeded, the companies will have an incentive to keep these figures as low as possible because they would still be contributing to the overall damages incentive.

Q. Please explain the basis for your proposed regulatory liability revenue adjustments for each of the measures described previously.

A. We revisited Distribution’s current gas safety operations non-compliance regulatory liability adjustment levels and determined the proposed basis point level is consistent with other current rate cases to maintain an adequate focus on gas safety and reliability.

Q. Do you have specific recommended rate adjustments that will be assigned for failure to meet the proposed safety performance measures?

A. Yes. We recommend the following regulatory adjustments be assessed in the corresponding rate year ending December 31, 2008. We derived the approximate value of a single basis point at $64,000. The distribution of the adjustments is relative to the amount of work or effort required by the company to meet the targets.

(1) Infrastructure Enhancement – (eight basis points) Failure to comply with either (a) or (b) will result in a regulatory liability of four basis points each or approximately $256,000.

(a) Failure to achieve the annual removal goal of 80 miles of leak-prone bare steel, cast iron and plastic mains will result in a regulatory liability of four basis points or approximately $256,000.

(b) Failure to remove a minimum of 4,000

bare steel services will result in a regulatory liability of four basis points or approximately $256,000.

(2) Leak Management – (eight basis points)

Failure to achieve a year-end backlog inventory of hazardous leaks will result in a regulatory liability of eight basis points or approximately $512,000.

(3) Emergency Response to Gas Leak/Odor Calls

(a) Respond to 75% of all gas leak and odor calls within 30 minutes.

(b) Respond to 90% of all gas leak and odor calls within 45 minutes.

(c) Respond to 95% of all gas leak and odor calls within 60 minutes.

Failure to comply with (a) will result in a regulatory liability of one basis point, or approximately $64,000.

Failure to comply with (b) will result in a regulatory liability one basis point, or approximately $64,000.

Failure to comply with (c) will result in a

regulatory liability of one basis point, or approximately $64,000.

(4) Excavator Damage Prevention – (eleven basis points) Failure to comply with either (a),(b) or (c) will result in a regulatory liability as follows:

a) Maintain an annual level of less than or equal to 0.90 damages per 1,000 One-Call Tickets for Mis-mark damages caused by incorrect marking of company facilities. Failure to achieve this level will result in a regulatory liability of four basis points or approximately $256,000.

b) Maintain an annual level of less than or equal to 0.20 damages per 1,000 One-Call Tickets for damages due to excavation by company personnel or outside contractors in the company’s employment. Failure to achieve this level will result in a regulatory liability of three basis points or approximately $192,000.

c) Maintain an annual level of less than or equal to 4.20 total damages per 1,000 One-Call Tickets.

Failure to achieve this level will result in a regulatory liability of four basis points or approximately $256,000.

Q. Are there any additional recommendations regarding the aforementioned performance incentives?

A. Yes. The Safety Panel recommends that Distribution be required to implement the aforementioned safety recommendations and performance incentives for calendar year 2008 and remain at the 2008 target levels for each subsequent year until the mechanisms recommended in this proceeding are superseded in the future by the Commission.

Q. Are there any other conditions that the companies should meet pertaining to your safety-related recommendations?

A. Yes, we urge the Commission to direct Distribution to submit a report to the Director

of the Office of Gas and Water on its performance in the areas of the recommended targets in this testimony within 30 days following the end of the calendar year. In addition, all targets and the application of revenue adjustments for targets that are not achieved should continue on a year-to-year basis until changed by the Commission.

Q. Does this conclude your panel testimony at this time?

A. Yes.